

MINUTES
WARRICK COUNTY AREA PLAN COMMISSION
Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, February 13, 2017, 6:00 PM

PLEDGE OF ALLEGIANCE: A moment of silence was held, followed by the Pledge of Allegiance.

MEMBERS PRESENT: Guy Gentry, Bill Byers, Bob Johnson, David Hachmeister, Jeff Valiant and Jeff Willis.

Also present were Aaron Doll, Attorney; Sherri Rector, Executive Director and Molly Barnhill, Staff.

MEMBERS ABSENT: Amanda Mosiman.

MINUTES: The President said at the last meeting we didn't have enough returning Board members to approve the minutes and he's not sure that we do yet.

Attorney Doll said they could abstain and it could be approved with less than an absolute majority with the abstentions of the new people.

The President said okay that is the way we will have to do the November and December minutes and then the January.

Jeff Willis made a motion to approve the November Minutes. Motion was seconded by Bill Byers. Bob Johnson, Jeff Valiant and David Hachmeister abstained. Motion was carried.

Jeff Willis made a motion to approve that there was no meeting in December. Motion was seconded by Bill Byers. Bob Johnson, Jeff Valiant and David Hachmeister abstained. Motion was carried.

Jeff Willis made a motion to approve the January 9, 2017 Minutes. Motion was seconded by Bill Byers. David Hachmeister abstained. Motion was carried.

The President said we want to welcome David to the Board.

The President explained the rules of procedure.

PC-R-17-01 – Petition of Spring Haven, LLC by John Elpers, Mgr. OWNER: Same To rezone 5.869 acres located 490' S of Vann Rd. and 230' E of Bell Road being part of lot 2 in

Martin Bell Subdivision as recorded in Document 2013R-002629 in the office of the Warrick County Recorder from “R-1” One Family Dwelling to “PUD” Planned Unit Development consisting of “R-1” One Family Dwelling. Ohio Twp. *Advertised in the Standard February 2, 2017.*

John Elpers and Scott Buedel were present.

The President said I know these are separate but should we go ahead and read them together.

Mrs. Rector said yes.

PP-17-02- Spring Creek PUD Subdivision by Spring Haven LLC, John Elpers, Mngr. OWNER: Same. A subdivision of lot 2 in Martin Bell Subdivision as recorded in Document 2013R-002629 in the office of the Warrick County Recorder. Being 5.869 acres located 490’ S of Vann Rd. and 230’ E of Bell Road. Ohio Twp. *Advertised in the Standard February 2, 2017.*

The President called for a staff report.

Mrs. Rector stated we are missing two return receipts from Brenda Uhde Hart and Daniel & Erin Tipton. She said we do have the certified mail receipts showing they were mailed in time and to the correct addresses. She said they have certified they mailed the primary plat notice and the rezoning notice together. She said they are requesting to rezone 5.869 acres from R-1 one family to PUD consisting of R-1 which is single family dwelling zoning district. She said R-1 requires a minimum of 6,000 square feet per lot but the PUD relaxes those requirements and some of the lots are under the 6,000 square feet. She said the Comprehensive Plan projects the area to be moderate to high density residential. She said this is part of an existing lot in Martin Bell Subdivision and there is an approved Primary Plat on the whole lot already approved by this Board. She said this is a new Primary Plat within the previously approved primary in order to do the PUD. She said the surrounding property and land use of the property to the South is “C-4” being lot 1 in Martin Bell sub; to the North and East is R-1 being part of the subject property and the west is zoned R-2 being Springston/Canterbury Green subdivision. She said this is a Planned Unit Development with 22 residential lots and 2 outlots for stormwater drainage. She said the PUD zoning relaxes the yard setbacks in this development to allow some of the lots to have 15-20’ front yards instead of the 25’, 15’ rear yards instead of 25’ and 5’ side yards instead of the required 6’; the building envelopes are shown on page 3 of the plat. She said there is no flood plain on the property and the access will be from the interior streets. She said the stated use is a PUD which would be allowed in the zoning classification. She said as you stated this rezoning will have to be approved by the Commissioners and so the primary plat should be subject to the rezoning being approved.

Mrs. Rector stated for the primary plat it is the same for the notices for the certified to the adjacent property owners. She said the proposed zoning is the PUD with the R-1. She said there is no flood plain. She said the Commissioners approved the street construction plans today and the Drainage Board approved their drainage plans. She said we have a letter from Newburgh that says they have capacity for the sewer. She said the letter states "Town of Newburgh will be constructing a new sanitary sewer line that will provide capacity for the lots of the proposed Spring Creek PUD." She said we have a letter from Chandler that they have the capacity for water. She said the proposed development as she stated before is a Planned Unit Development with 22 residential lots with two outlots for drainage with the relaxations that she stated awhile ago. She said they are asking for a sidewalk waiver that would affect the property to the east of the large drainage ditch and would apply to both sides of Cora Court (lots 103-121 & outlot B). She said they will have to make a motion to approved/disapprove the waiver also.

The President asked if they had anything to add to the staff report.

Scott Buedel said when they initially filed and went through the process to get approvals for the original subdivision this was a large lot, the 5.8 that was south and east of the ditch. He said after they got the initial primary approval for that they started construction they started looking at options as far as developing that property or selling it and potentially what it would look like. He said the original plat had a cul-de-sac just west of the ditch and our concern was that cul-de-sac would be a bulb in the middle of the road if somebody bought that property and extended a road straight through so John looked at that and wanted to tackle it himself. He said the reason they left it out in the first place and the reason they are coming back with a PUD is as you can see the depth of the lots is substantially less than what we would typically want on a residential subdivision. He said 120-125' is what we had on the first part of the subdivision which allows for a typical house to be built with a little backyard. He said we asked for the yards to be relaxed to get a larger house footprint on these lots.

Jeff Valiant said if he understood it right we are talking about lots 103 all the way around the cul-de-sac back to lot 121 with no sidewalks; is that what is part of the application?

The President said he thinks this is real similar to what Combs brought to us last year; their setback is only 15' so if there is a car out there and there is sidewalks you'd have to walk out in the streets to go around them anyway.

Mrs. Rector said so it is the entire subdivision in this section.

The President said it starts at 101, did they say anything about 100 thru 102?

Jeff Valiant said it is 103 thru 121 and outlot B.

Scott Buedel said everything east of the ditch and due to the angle of the ditch that goes through the property we wanted to stop at a point where we could get a perpendicular crossing because we would have to end the sidewalk with a handicap ramp and then have a break in the curb and have that same access on the other side so it would be squared off at a point west of the ditch.

The President said so there would still be sidewalks in front of 101, 102, and 103.

Attorney Doll said so there will be three lots that will have sidewalks.

The President said that would tie in with the existing but then nothing back in this area.

Mrs. Rector said those lots are larger up front.

Scott Buedel said it is crossing the ditch and everything east of the ditch where we run into that same situation where if the house is built at the 15' building setback and a car is parked in front of the house, if there was a sidewalk there that car would be blocking the sidewalk you'd have to walk out into the street to get around it.

Being no further questions from the Board and no remonstrators present the President called for a motion on the rezoning.

Guy Gentry made a motion to give a positive recommendation to the Commissioners for PC-R-17-01. The motion was seconded by David Hachmeister and unanimously carried.

The President said the next motion they need is for the waiver of the sidewalks.

David Hachmeister made a motion to approve their sidewalk waiver. The motion was seconded by Jeff Willis and unanimously carried.

The President said the next item would be approval of the primary plat subject to the rezoning.

Jeff Valiant made a motion to approved PP-17-02 subject to the rezoning being approved. The motion was seconded by Bill Byers and unanimously carried.

The President said the rezoning will meet again in this room on March 13th at 4:00.

MEETING DATES TIMES AND PLACE:

Mrs. Rector stated it is still the second Monday of each month at 6:00 pm except October will be October 10th the second Tuesday of the month due to a holiday.

The President called for a motion.

David Hachmeister made a motion to approve. The motion was seconded by Jeff Valiant and unanimously carried.

The President said he would encourage everybody to try to make as many meetings as they can being they do have people coming forth it's very awkward because we have to have a quorum to pass stuff along so they are coming up so please try to make all of our meetings.

OTHER BUSINESS:

Formal Complaint: Leland Powell ~ 212 E 3rd Street ~ Lynnville ~ Alleged junk/salvage yard in an “M-1” Light Industrial zoning district.

The President said he does not see Mr. Powell here.

Attorney Doll said usually we don’t handle complaints without the person being present.

Mrs. Rector stated she does not find it in violation that is why they are here to talk about it. She said as they know the Town of Lynnville has filed complaints on this property several times. She said each time we find them not in violation. She said one of our Board members was filing the complaints, she was basically instructed by our Counsel that a Board member shouldn’t be filing complaints so now we have another Town Board Member that brought up this one. She said it is M-1 as before Industrial. She said he did have a little pile of trash out there. She said David went out there today; is that trash gone?

David Hachmeister said no there are some bags outside the dumpster. He said his suggestion would be to...it’s already enclosed behind chain link but to either build a fence that would hide it from view or have a larger dumpster.

The President asked if there were two dumpsters back there.

David Hachmeister said there was one there today.

Mrs. Rector said it looks like to her that he has the trash piled up there for the dumpsters.

Jeff Willis said they don’t like the fact that he bought the school and converted it into apartments and self-storage.

Mrs. Rector said she thinks this has been to them enough times; it doesn’t fall under a salvage yard; we decided that we are not going to keep cleaning up Warrick County, we don’t have the money and the highway department...

Attorney Doll said it’s an endless task. He said we get a court order, we get it cleaned up, the highway department goes out there and picks it up and you can go back 6 months later and it’s as bad as it was before we cleaned it up.

The President said most of what we cleaned up is worse than what this is.

David Hachmeister said the only thing he would worry about is with the trash bags is animals getting in there and busting the bags open.

Attorney Doll said maybe a letter to him reminding him that he cant store trash outside the trash dumpster.

Jeff Willis asked when were these pictures taken.

Mrs. Rector said the 26th. Mrs. Rector said there is a chair in one of these pictures, is that stuff gone?

David Hachmeister said he didn't really see that stuff.

Mrs. Rector asked if he had just seen the trash bags sitting outside of the dumpster.

David Hachmeister said okay that is a different angle there and he did not drive around there. He said after they talked on the phone and he saw what the complaint was that was the only two things he would consider is having another dumpster or having it picked up more often.

Mrs. Rector said her thing is that we have to stop this from happening every month. She said she asked Mr. Erwin, why don't you have town ordinances and enforce this yourself.

Jeff Valiant said that is what they do in Elberfeld.

Mrs. Rector said yes and he said they do have some.

Attorney Doll said he thinks they can self-help.

The President said the only thing they have is a salvage yard and he doesn't think it falls into that category so it's not necessarily in violation of our ordinance. He asked what were the Boards wishes.

Attorney Doll said to find it doesn't violate the county ordinance against the operation of a salvage yard but that it's eligible to be addressed by the town of Lynnville's own ordinance.

The President asked if they could send a letter to that effect.

Attorney Doll said if the town has a trash ordinance that is what addresses this. He said we have the zoning ordinance concerning operation of a salvage yard in certain zoning and that's how they have done it before where they have had residentially zoned property that looks like a junk yard and they have enforced that but that is not what this looks like so they should use their own trash ordinance if they choose to address it.

Jeff Willis said the stuff on the fence he understands that needs to be cleaned up on the far side and he doesn't know if it has been. He said they keep piling it up there which is why they don't put dumpsters out for our own...

Bob Johnson said this is out by him and he could drive by there to see if they've cleaned it up or whatever.

Jeff Willis said between the 2 trucks where that couch is sitting there, it takes them 90 days before they can do anything by self-storage law so he can't touch that stuff and throw it away that is sitting between the 2 trucks because that customer, even if they are not paying their rent, he can't touch it for 90 days.

Mrs. Rector said and with the M-1 he can have a warehouse/self-storage. She asked Attorney Doll if he could put together a short letter stating that they are not in zoning violation and his recommendation for them is to enforce their trash ordinance or to create one.

Attorney Doll said yes and it will be addressed to Mr. Erwin.

Mrs. Rector asked if we should copy Mr. Powell.

Attorney Doll said sure, no reason not to. He said the only thing of it is that might embolden him that he is okay.

Jeff Willis said he is probably out of town.

Mrs. Rector said he goes to Florida, I bet his son is doing it. Mrs. Rector said okay so that is the motion.

Jeff Valiant said yes.

The President said motion on the floor, do we have a second?

Bill Byers seconded the motion and it was unanimously carried.

ATTORNEY BUSINESS:

Attorney Doll said there was nothing to report.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Rector said some of them may not know but she is the floodplain administrator for the county so their office gets to mess with floodplain regulations through DNR and FEMA. She said we get audited, they used to do it every year and now it's like every three years. She said if we issue a permit in the flood plain they have to have certified plot plans stating it's 2 feet above the base flood elevation by a certified engineer certifying to that before we can issue any permits. She said if they do subdivisions then we have to make sure that any floodways are established, base flood elevations you've seen and where she says it's in the floodplain but the base flood elevation has been determined to be bla, bla and everything has to be built up etc.. She said they came and did an audit and our permits were all fine; they took copies of them to look at and make sure. She said once a building gets built that is in the flood plain it either gets removed by

a Letter Of Map Amendment through FEMA or there has to be an asbuilt by that engineer that certified to the 2 feet above has to be given to us and certified it was built up out of the flood plain. She said so all of that was fine. She said in the meeting Molly came with me and they started asking about if we were giving permits for utilities. She said no they don't give permits for utilities. She said they asked about excavating, grading and all that. She said who would she give a permit to and what would she be giving a permit for. She said they said it is in our ordinance which is on the second page where it says constructing and installation of utilities, any mining, construction of bridges or culverts, or any of this and she argued with the guy and said they have never done this since 1982 have they ever issued a permit for utilities or for somebody moving dirt. She said Improvement Location Permits are for structures not anything else. She said he was going to go back and talk to his boss about it so then we get this letter. She said they also gave her a new floodplain ordinance that they want drafted by April 6th and she said that isn't happening so she is supposed to ask for an extension. She said she got this letter so she called up his boss, Anita that signed this letter whom she has known for years, and she asked about it stating they want an Improvement Location Permit for 2 subdivisions; one of them was approved back in 2005 and the other one the guy filed bankruptcy on, it's half built up and she said yes you are going to have to get one. Mrs. Rector asked her get one from who; the developers are gone. She said Anita said they are just going to have to work out something. She said she told Anita she would take it to the Board and she talked to Morrie about it; she has a call into Vanderburgh County, they just did a new floodplain ordinance, she has a copy of it and her son works in the Planning Commission there and he talked to the Floodplain Administrator and they said they have never issued any permits for what they are asking you for. She said so anyways, this is going on, she is going to get Morrie involved in it because they have to stay in the program; this is the only way people get flood insurance in the county so you have to do what they say but there has to be....

The President asked can't they update the ordinance to pull those things out of it?

Mrs. Rector said that is what she is trying to find out.

Attorney Doll said we need to check the minimum State standards.

The President said I thought we did that with fences.

Attorney Doll said apparently we did not take it out of the definition of development. He said what we need to do is check what the minimum State requirements are and then make sure we don't fall out of compliance because as Sherri said 39 million dollars of Warrick County property is insured with flood insurance and their premiums will go berserk if we are not complaint with the State program. He said so we don't have a choice of compliance or non-compliance but his recommendation would be that Sherri and he review the State minimum

standards for the term development and then we may want to take as many as these things out of our County definition that are not required since we have not been doing it anyway and then see if we can come into compliance that way. He said but like land preparation ect. is going to be...

Mrs. Rector said there is no way that she would even know when anybody is going to move dirt.

Attorney Doll said because we don't require a Location Improvement Permit to move dirt.

The President said yes in site review they ask and we tell them they can start moving dirt whenever.

Mrs. Rector said right, when we talk we tell them they just can't put any materials in the ground. She stated she also asked Ms. Nance about the culverts; does that mean when the County Highway Department goes to put a culvert in, they already have a DNR Permit because I get a copy of it by being in the flood plain and she goes yes they have to get an Improvement Location Permit from you first before they can put it in. She asked our own Highway Department, our own Storm water, and she said yes they have to get an Improvement Location Permit. Mrs. Rector said she asked her what about anybody that's putting in a 12" by 20' driveway culvert and she responded if it is in the floodplain. She said she asked her what is she giving a permit for because it will still be in the floodplain and Anita responded because your ordinance says so.

Attorney Doll said that is where we are going to try to... He said my philosophy would be we narrow the ordinance as much as we can get by with to take these discrepancies out so we are not violating our ordinance by commonsensically not issuing these permits in the flood plain now.

Mrs. Rector said Vanderburgh County's definition does not have this in it.

Attorney Doll said he understands that. He said they are going to look at that and check it with the State minimum requirements so our citizens can still qualify for advantageous premium pricing on flood insurance.

The President said so she is going to get stuff together and get back with them.

Mrs. Rector said yes and she will be emailing to them so she doesn't bring it to them in a meeting and they are sitting here trying to read it. She said she is going to ask them for an extension because she told them there is no way she could get a draft done by April the 6th. She said they told her to ask for an extension but they want the improvement location permits issued for these two subdivisions; Bellmoore Landing is where Wal-Mart is. She said Greg Moore was the developer and went bankrupt.

Attorney Doll said that is a piece of property that was not in the floodplain and then in 2012 was put into the floodplain.

Jeff Willis said so at the time it wasn't in the floodplain.

Attorney Doll said when it was built.

Mrs. Rector said the subdivision was but Wal-Mart was not in the floodplain.

Attorney Doll said now Wal-Mart is in the newest floodplain and it wasn't ten years ago.

Mrs. Rector said the other is out in Arbor where they are putting the apartments in. She said the back part, the developer, they went bankrupt...remember the County drew their letters of credit for the streets and sidewalks and everything back in there and then Murphy bought the back part out and then Chandler Group bought the front part but who is she going to get an Improvement Location Permit for a subdivision; she doesn't even know how to give one for a subdivision.

Attorney Doll said he doesn't know; it would be like part of the approval for the plat.

Mrs. Rector said that is what she told them; they do this with the plat. She said you have the public utility easements, you have base flood elevations, you have street elevations, you have every bit of this on the plat.

Attorney Doll said maybe when we give a plat approval now we ought to attach an Improvement Location Permit to do everything that the plat specifies.

Mrs. Rector said that is fine but she would rather just take it out of there.

Attorney Doll said he understands that; if they can that would be his philosophy.

Mrs. Rector said she also does not want it to come back on her with her name on that Improvement Location Permit if somebody puts a utility somewhere that is out of the public utility easement and then say well your name is on this Improvement Location Permit.

Attorney Doll said pursuant to the plat.

Mrs. Rector said but she doesn't know where that utility line is going. She said she told them why are they doing utilities because they are 2' underground anyway.

Attorney Doll said he would just assume to take as much as they can limit in the Warrick County Ordinance and it would be his recommendation that they do that if possible. He said he also thinks it's really good that they want Sherri to go to floodplain management school in Emmetsburg Maryland.

Discussion ensued.

Being no other business the meeting adjourned at 6:35 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director